

A PHA that has failed to obtain approval of its comprehensive plan by the end of the FFY shall have its formula allocation for that year (less any formula amounts provided to the PHA for emergencies) added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to PHAs and IHAs participating in the CGP in accordance with the formula under § 968.103(e) and (f) in the subsequent FFY. A PHA that elects in any FFY not to participate in the CGP may participate in the CGP in subsequent FFYs;

(2) *Requests for emergency assistance.* A PHA may receive funds from its formula allocation to address emergency modernization needs where HUD has not approved a PHA's comprehensive plan. To request such assistance, a PHA shall submit to HUD a request for funds in such form as HUD may prescribe, including any documentation necessary to support its claim that an emergency exists. HUD shall review the request and supporting documentation to determine if it meets the definition of "emergency work" as set forth in § 968.305.

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[61 FR 8744, Mar. 5, 1996, as amended at 64 FR 50229, Sept. 15, 1999]

§ 968.320 HUD review and approval of comprehensive plan (including five-year action plan).

(a) *Submission of comprehensive plan.*

(1) Upon receipt of a comprehensive plan from a PHA, HUD shall determine whether:

(i) The plan contains each of the required components specified at § 968.315(e); and

(ii) Where applicable, the PHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate PHA performance, audit findings, or civil rights compliance findings;

(2) *Acceptance for review.* If the PHA has submitted a comprehensive plan (including the action plan) which meets the criteria of paragraph (a)(1) of this section, HUD shall accept the comprehensive plan for review, within 14 calendar days of its receipt in the field

office. The PHA shall be notified in writing that the comprehensive plan has been accepted by HUD for review, and that the 75-day review period is proceeding;

(3) *Time period for review.* A comprehensive plan that is accepted by HUD for review shall be considered to be approved unless HUD notifies the PHA in writing, postmarked within 75 calendar days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan. HUD shall not disapprove a comprehensive plan on the basis that it cannot complete its review within the 75-day deadline;

(4) *Rejection of comprehensive plan.* If a PHA has submitted a comprehensive plan (including the action plan), which does not meet the requirements of paragraph (a)(1) of this section, HUD shall notify the PHA within 14 calendar days of its receipt that HUD has rejected the plan for review. In such case, HUD shall indicate the reasons for rejection, the modifications required to qualify the comprehensive plan for HUD review, and the deadline date for receipt of any modifications.

(b) *HUD approval of comprehensive plan (including action plan).* (1) A comprehensive plan (including the action plan) that is accepted by HUD for review in accordance with paragraph (a) of this section shall be considered to be approved, unless HUD notifies the PHA in writing, postmarked within 75 days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan, indicating the reasons for disapproval, and the modifications required to make the comprehensive plan approvable. The PHA must re-submit the comprehensive plan to HUD, in accordance with the deadline established by HUD, which may allow up to 75 calendar days before the end of the FFY for HUD review. If the revised plan is disapproved by HUD following its resubmission, or if the PHA fails to resubmit by the deadline established by HUD, any funds that would have been allocated to the PHA shall be added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to PHAs and IHAs participating in the CGP in accordance with

the formula under § 968.103(e) and (f). HUD shall not disapprove a comprehensive plan on the basis that the Department cannot complete its review under this section within the 75-day deadline;

(2) HUD shall approve the Comprehensive Plan except where it makes a determination in accordance with one or more of the following:

(i) Comprehensive Plan is incomplete in significant matters;

(ii) Identified needs are plainly inconsistent with facts and data;

(A) Identified physical improvements and replacements are inadequate;

(B) Identified management improvements are inadequate;

(C) Proposed physical and management improvements fail to address identified needs;

(iii) Action plan is plainly inappropriate to meeting identified needs;

(iv) Inadequate demonstration of long-term viability at reasonable cost; and

(v) Contradiction of local government certification or PHA resolution.

(c) *Effect of HUD approval of Comprehensive Plan.* After HUD approves the Comprehensive Plan (including the Five-Year Action Plan), or any amendments to the plan, it shall be binding upon HUD and the PHA, until such time as the PHA submits, and HUD approves, an amendment to its plan. The PHA is expected to undertake the work set forth in the Annual Statement. However, the PHA may undertake any of the work identified in any of the other four years of the latest approved Five-Year Action Plan, current approved Annual Statement or previously approved CIAP budgets, without further HUD approval. Actual uses of the funds are to be reflected in the PHA annual Performance and Evaluation Report for each grant. See § 968.330. The PHA is encouraged to inform the residents of significant changes (such as changes in scope of work or whenever it moves items within the approved Five-Year Action Plan). Documentation of that information shall be retained in PHA files. If HUD determines as a result of an audit or monitoring findings that a PHA has provided false or substantially inaccurate data in its Comprehensive Plan/Annual Submission or has circumvented the intent of

the program, HUD may condition the receipt of assistance, in accordance with § 968.335. Moreover, in accordance with 18 U.S.C. 1001, any individual or entity who knowingly and willingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

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[57 FR 5575, Feb. 14, 1992, as amended at 59 FR 44841, Aug. 30, 1994. Redesignated and amended at 61 FR 8747, Mar. 5, 1996]

§ 968.325 Annual submission of activities and expenditures.

(a) *General.* The Annual Submission is a collective term for all documents which the PHA must submit to HUD for review and approval before accessing the current FFY grant funds. Such documents include the Annual Statement, Work Statements for years two through five of the Five-Year Action Plan, local government statement, PHA Board Resolution, materials demonstrating the partnership process and any other documents as prescribed by HUD. For planning purposes, a PHA may use either the amount of funding received in the current year or the actual formula amount provided in HUD's notification under § 968.310(b)(1) in developing the Five-Year Action Plan for presentation at the resident meetings and public hearing. Work Statements cover the second through the fifth years of the Five-Year Action Plan and set forth the major work categories and costs by development or PHA-wide which the PHA intends to undertake in each year of years two through five. In preparing these Work Statements, the PHA shall assume that the current FFY formula amount will be available in each year of years two through five, as discussed in § 968.315(d)(5)(i). The Work Statements for all five years will be at the same level of detail so that the PHA may interchange work items. A PHA may budget up to 8% of its annual grant in a contingency account for cost overruns.